

**REPORT
OF
THE GROUP OF EXPERTS
ON
LAND ACQUISITION**



**MINISTRY OF FOOD, AGRICULTURE,
COMMUNITY DEVELOPMENT AND COOPERATION
(DEPARTMENT OF AGRICULTURE)**

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REPORT OF THE GROUP OF EXPERTS ON LAND ACQUISITION

1. INTRODUCTION, TERMS OF REFERENCE AND MEETINGS

Introduction

1.01. The Government of India have for sometime past been considering remedial measures against delays and other difficulties in the acquisition of land for various development projects. They have also felt concerned about complaints with regard to the compensation. Although many of these problems have been examined in the past, first by the Law Commission and later by ad-hoc committees, no workable arrangements have as yet been evolved. Government also felt the need to associate experienced administrators from the States in order to make a practical and co-ordinated review of the problems relating to land acquisition.

1.02. In pursuance of this purpose, the Ministry of Food and Agriculture decided to appoint a group of senior administrators for examining and reviewing all questions pertaining to land acquisition including the procedures for the acquisition and the principles governing determination of compensation.

Composition of the Group

1. Shri B. Sivaraman, Secretary,
Ministry of Food, Agri., Comm.
Dev. and Coopn. (Deptt. of Agri.) Chairman
2. Shri K. Sen, Member, Board of
Revenue, Government of West
Bengal, Calcutta. (Succeeding
Shri N. Ray Chaudhury) Member
3. Shri V. M. Joshi, Secretary,
Revenue Deptt., Government of
Maharashtra, Bombay. (Succeed-
ing Shri L. G. Rajwade). Member
4. Shri M. Lal, Member, Board of
Revenue, Government of U. P.,
Lucknow. Member
5. Major General Harkirat Singh,
Adviser, Planning Commission,
New Delhi. Member
6. Shri K. S. Sivasubrahmanyam,
Revenue Secretary, Government
of Madras, Madras. Member
7. Shri B. S. D. Baliga, Director,
Civil Engineering, Miny. of
Railways, New Delhi. Member
8. Shri K. A. Ramasubramaniam,
Director, Town and Country
Planning Organisation, Ministry
of Works, Housing and Urban
Development, New Delhi. Member

9. Shri Gajendra Singh, Director,
Military Lands and Cantonments,
Ministry of Defence, New Delhi. Member
10. Shri A. N. Seth, Director, Land
Reforms, Planning Commission,
New Delhi. Member
11. Shri D. B. Kulkarni, Joint
Secretary and Legal Adviser,
Ministry of Law, New Delhi. Member
12. Shri K. G. George, Deputy
Secretary, Department of
Industry, New Delhi. Member
13. Shri A. Das, Deputy Secretary,
Ministry of Irrigation and
Power, New Delhi. Member
14. Shri K. N. V. Nambisan, O. S. D. ,
Ministry of Works, Housing and
Urban Dev. , New Delhi. Member
15. Shri Nau Nihal Singh, Deputy
Secretary, Council of Scientific
and Industrial Research, New Delhi. Member
16. Shri Jagmohan, Deputy Housing
Commissioner, Delhi Adminis-
tration, Delhi. Member
17. Shri Saran Singh, Joint Secretary,
Department of Agriculture . Convener
(Succeeding Shri Ameer Raza)

Terms of Reference

1.03. The group was required to go into all questions relating to land acquisition, with particular reference to the procedure for acquisition and the principles for determining compensation, to examine the difficulties experienced and to suggest remedies, in particular, for the delays occasioned in completion of the proceedings. In doing so, the group was also expected to examine the various recommendations made by the Law Commission in its Tenth Report.

1.04. The first meeting of the group was held at New Delhi on 16th November, 1965. In this meeting, the group considered the procedure for acquisition and examined the desirability of fixation of time-limits for completion of each stage of the proceedings. It also dwelt on enlargement of the scope of Section 17 of the Land Acquisition Act, 1894, recommendations of the Thacker Committee (set up by the Housing Ministers' Conference in December, 1964) for strengthening the administrative arrangements and suggestions of the Madras Committee on Land Acquisition. The meeting also examined the question of compensation.

1.05. In the second meeting held on April 14-15, 1966, further ground was covered with regard to the procedure and the suggestions regarding fixation of time limit. The group also considered the extent of Government responsibility in regard to rehabilitation of persons displaced by the acquisition of land for bigger projects. The group met for the third time on September 9, and again on the 20th October, 1966 when it considered the first draft of this Report in the light of comments received from members. The final draft of the report was discussed and adopted subject

to certain modifications (since effected) in the meeting held on 6th January, 1967.

2. CONSTITUTIONAL LIMITATIONS

2.01. The legislation regarding acquisition has to be in conformity with the constitutional provisions. Prior to 1956, legislative powers in respect of acquisition of property were exercisable separately by the Union and the States, but the principles of compensation and the power to lay down such principles were included in the Concurrent List. This resulted in serious anomalies and some of the State provisions were struck down by Courts. By the Seventh amendment of the Constitution, the separate entries in regard to this subject in the Union and State Lists were omitted and a single entry included in the Concurrent List as follows: "42-Acquisition and Requisitioning of Property".

2.02. In the case: State of West Bengal Vs. Bela Banerji (1954 SCR-558), Supreme Court laid down the following principles in relation to article 31(2) as it stood before the Fourth Amendment :-

- i) The compensation under article 31(2) shall be a "just equivalent" of what the owner has been deprived of;
- ii) The principles which a Legislature can prescribe are only principles for ascertaining a "just equivalent" of what the owner has been deprived of;
- iii) If the compensation fixed was not a "just equivalent" of what the owner has been deprived of, or if the principles did not take

into account all relevant elements, or took into account irrelevant elements for arriving at the "just equivalent", the question in regard thereto is a justiciable issue; and

- iv) The fixation of an anterior date for the ascertainment of the value of the property acquired without reference to any relevant circumstances which necessitated the fixing of an earlier date for the purpose of ascertaining the real value is arbitrary.

2.03. By the subsequent amendment of article 31(2), the question of adequacy of compensation has been made non-justiciable. That does not, however, mean that the law of acquisition is wholly immune from the scrutiny of the Court. If a law lays down principles which are not relevant to the value of the property acquired at about the time it is acquired, it must be said that they are not principles contemplated by article 31(2), and do not pertain to the domain of adequacy and in such circumstances their validity would be open to scrutiny by Courts. Further, when the compensation as prescribed in law is in fact illusory, the Court would have jurisdiction to deal with the matter. Thus the court would have jurisdiction if the Legislature, though ex-facie purporting to provide for compensation, or indicating the principles for its ascertainment, in fact and substance, takes away property without providing compensation, or provides for illusory compensation, or for its ascertainment on arbitrary principles, for in that case, the Legislature would be enacting a law in a fraud of its power under article 31(2).

2.04. Consequently, the exercise of the legislative powers by the State is subject to the limitations laid down by the Court and the interpretation of the consti-

tutional provision. This limitation has to be borne in mind while considering any amendment of the principal Act.

3. DEFINITION OF PUBLIC PURPOSE

3.01. The group noted that as the law at present stands, it does not define public purpose, nor does it lay down any criteria for determining whether a particular purpose is a public purpose. The group felt that it would not be desirable to attempt a definition of this expression. It agreed with the Law Commission that in a fast developing context, the broad interpretation that the proposed acquisition should, in some positive way, promote the welfare of the community as distinct from benefits conferred upon an individual, may remain as the guiding factor. Any precise definition which may hold good in the present situation may not be applicable in a future context.

4. NEED FOR UNIFORMITY IN THE LAWS ON LAND ACQUISITION

4.01. The group considered that in a matter concerning acquisition of private property, the laws relating to the rights and liabilities of the citizens and the powers of the State should as far as possible be uniform.

4.02. It was, however, pointed out that there is a great danger in replacing the Land Acquisition Act, 1894, as any new legislation will not enjoy the protection afforded by Article 31(5) of the Constitution. It is, therefore, only in respect of essential matters that the group would recommend amendments. The subject being in the Concurrent List it would be for

each State to examine the recommendations and adopt suitable amendments.

4.03. The group gave special consideration to the question of acquisition of land for various public sector undertakings and companies. As the law stands, acquisition may be made either for the benefit of the Union or the State, or for the benefit of a public or local authority. Local authorities will include State-owned or State-controlled corporations. Besides these, acquisition is also permitted under the existing law for the benefit of companies—whether any private or public sector, cooperative societies and institutions managed by charitable trusts. The wide interpretation of the expression "public purpose" enables a company to approach the Government for acquisition in cases where land is required by it for a purpose which is considered a "public purpose", and hence meets the requirements of Section 4. The consensus of view was that as long as there is a public purpose, Part-II of the Principal Act should apply to cases of acquisition of land for the companies. In other cases, Part-VII, being a special provision for companies would apply. The group was, however, of the view that an enabling provision should be enacted to place the position beyond doubt in order that land can be acquired for a company under Part-II of the Act when, in the opinion of the appropriate Government, it is specifically for a public purpose. The group noted that such an enabling provision would solve the difficulty experienced by the Council of Scientific and Industrial Research and similar public bodies.

4.04. Regarding legislative measures for acquisition of land for special purposes such as town planning, the group maintained that the Land Acquisi-

tion Act is a general law and it does not deal with the specific problems such as are involved in town planning. The group has been entrusted with the task of examining the 1894 Act and it has to keep its objectives within these limits. It cannot go into complicated issues which a legislation on town planning and urban development would involve. Besides, if it tries to have too much uniformity, it would have to reckon with the Constitutional limitation earlier referred to. The group, therefore, felt that it was not within its purview to consider whether there should be a separate law for town planning. It is left to the administrative Ministry (viz. Miny. of Works, Housing and Urban Dev.) to take appropriate policy decision in this regard after consulting other Ministries at the Centre and the State Governments.

5. PROCEDURAL DELAYS-REMEDIES EXAMINED

5.01. The problem of delays has been the most important issue before the group. It was realized that almost every development project has land as its basic requirement. Because of procedural delays, not only is the time table upset, but the cost of the project also rises. In this connection, the Law Commission rightly observed: "the main complaint of the Government is that they are greatly handicapped in carrying out large projects in and outside the development plans as well as other work of public utility, as the machinery provided and procedure laid down in the Act allowed great delays in obtaining possession of the land sought to be acquired. For the smooth and speedy attainment of the ideal of a welfare State, it is imperative that the Government should be able to obtain possession of the lands needed for their projects with the least possible delay. On the other hand, the complaint from the

public is that there are unconscionable delays in the determination of compensation and its payment to the owners of properties".

5.02. The group examined at length the various reasons for delay. It was felt that a good deal of delay was due chiefly to administrative inaction rather than any inherent defect in the law. Such delays can be eliminated by taking administrative action to streamline the working of land acquisition office, by providing efficient staff and by enforcing the greatest measure of supervision.

5.03. In the first place, the group endorsed the recommendation that acquisition of good agricultural land for non-agricultural purposes should be avoided as far as possible. The requisitioning department should take care to consider this aspect in detail and wherever good agricultural land can be saved, alternative acquisition proposal should be submitted.

5.04. Another problem which was raised was that requisitioning parties sometimes ask for much more land than what is required in the foreseeable future for the purpose in hand. It will facilitate both the handling of the demand for acquisition and future difficulty in release of land which may not be utilized in time, if care is taken to consider this aspect and apply only for the minimum area which may be required in the foreseeable future.

5.05. Both these aspects will facilitate action by the competent authority for acquisition of land in coming to a decision about the area as well as location of land to be acquired and for which Section 6 declaration is to be issued. The requisitioning department should also certify that the project for which land is required has the administrative approval of the

Government and the necessary budget provision has been made to meet the cost of acquisition.

5.06. So far as legal provisions relating to the procedure for acquisition are concerned, the group noted that the Law Commission had considered laying down certain firm time-limits for each stage of acquisition, according to the following schemes :

<u>Stage of proceeding</u>	<u>Maximum time limit for completion</u>
i) Preliminary notification under Section 4(1).	
ii) Survey and investigation under Section 4(2).	3 months which may be extended to 6 months from (i) above.
iii) Filing of objections under Section 5A.	1 month from (i) above.
iv) Hearing of objections and report of the Collector to Government.	1½ months from (iii) above or ½ month from (ii) above, whichever is later.
v) Order to the Collector to prepare a plan (Section 7).	1½ months from (iv) above.
vi) Preparation of Plan (Section 8).	2 months from (v) above.
vii) Declaration under Section 6 that land is needed for a public purpose.	1 month from (vi) above.

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| viii) Taking possession of land under Section 16, after the award is made. | 2 months, which may be extended to four months, from (vii) above. |
| ix) Notice, enquiry and offer of compensation by the Collector (Section 11 to 13). | 12 months, which may be extended to 16 months, in all from (i) above. |

5.07. In this connection, the group examined the legal position in the light of some recent rulings. The Supreme Court has held that the interval between the date of notification and the acquisition of the property must be reasonable so that the value paid as compensation is a fair value.

5.08. While the group endorsed the view that the entire proceedings, from the preliminary notification upto the taking of possession after the award is made, should be completed within a specified period, which may not exceed, say, five years from the date of issue of notification under Section 4(1), it was of the opinion that it would not be expedient to lay down specific time-limits for completion of each stage of the proceedings. As a matter of fact, it was felt that any rigid time-limits set within the frame work of the law may cut both ways. Thus, if the specified action is not taken within the mandatory period, the whole proceedings would become vitiated, necessitating the entire process to be gone through all over again. This, the group felt, might defeat the very purpose of fixation of such time limits. Instead of making a rigid time-table as a part of the law, there may be an over-all time-limit in the Act, leaving the details to be included in the rules and administrative instructions. At any rate, the group felt that some restric-

tive provision should be made that in case the awards are not completed within a given period, say, of five years from the date of notification under Section 4(1), the valuation for determining the compensation should be as on a date five years prior to the date of the award.

5.09. Considering the constitutional limitation and keeping in mind the Supreme Court rulings, the following conditions may be stipulated :

- i) If the draft declaration under Section 6 was not published within three years of the date of notification under Section 4(1), the preliminary notification should become invalid;
- ii) If the award is not made within 5 years of the publication of Section 4(1) notification, compensation should be antedated on the basis of the market value as on a date 5 years prior to the award. Alternatively, it was suggested that interest may be payable on the compensation money in case the 5 years limit is exceeded; the latter course may be more practical considering that the former would introduce an element of uncertainty and also the antedating of the market value would compel a revision of the estimates of the project concerned. and
- iii) In computing the period, the time spent in litigation should be excluded unless the Court rules otherwise.

6. SOME IMPORTANT PROVISIONS DISCUSSED

Section-4

6.01. Coming to a clause-wise study of the legal provisions, the group considered the suggestion that

one way to reduce the delay in issue of a notification under Section 4(1) would be to empower the Collector to issue the notification. The group noted that the Madras Committee did not favour such a delegation and felt that Government should continue to be the authority competent to take a final decision, although the Committee did consider that it would be an advantage to give limited powers to Collectors in regard to notifications under Section 4(1) of the Land Acquisition Act. The group was of the view that limited powers could be delegated to the Collector. Power should be conferred on the Collector to initiate proceedings and issue notification under Section 4(1) in all ordinary cases. Consequential draft declaration under Section 6 should, however, be sent upto Government for approval and publication. In cases involving Section 17, i.e. where urgency clause is applicable, notification under Section 4(1) read with Section 17 should be invariably published by government as at present.

Section 5

6.02. The Law Commission had examined the question of delay in the hearing of objections. It also referred to the delay that is occasioned in the survey and demarcation of the area after the issue of declaration under Section 6. If the object of the investigation is to find out the suitability of the land for the purpose for which is to be acquired and to consider whether other lands in the locality may not be better suited for that purpose, the question arises whether the survey and demarcation should not be completed before the issue of declaration under Section 6, so that Government is enabled to take possession of the land immediately after the declaration. The Law Commission had, therefore, recommended that after the notification under Section 4(1), the investigation

under Section 4(2) should be completed and there should be a report to the Collector. Simultaneously with the investigation, the Collector should hear objections and prepare his report in that behalf. The two reports should reach Government together to enable the Government to take a decision on (a) whether the purpose is 'public', and (b) whether the land is the most suitable. Government decision would enable the Collector to take possession of land within a specified period. The Law Commission envisaged that it should be possible to complete these proceedings, beginning with the notification under Section 4 and ending with the declaration under Section 6 within six months. In this connection, the Group agreed that simultaneous action should be taken with regard to survey, demarcation and measurement of land and the hearing of objections, but that fixing of a time limit was unworkable.

6.03. One of the contributory causes of delay is the service of notice. The group considered the question of valid service of notice inviting objections under Section 5A and suggested that a notice sent under 'registered acknowledgement due' post should be deemed to be a valid service of the notice inviting objections.

Section 6.

6.04. In cases of big projects, the practice has been to notify the entire area proposed to be acquired under Section 4 and thereafter to issue piece-meal declarations under Section 6 in respect of parts of the area as the project proceeds. The group took note of the fact that, in a recent judgment pronounced in February 1966, the Supreme Court has held (State of Madhya Pradesh Vs. Vishnu Prasad Sharma and others) that declarations under Section 6 cannot be

issued piece-meal and once a single declaration under Section 6 is issued, the force of the notification under Section 4 is extinguished. This judgment is based on the principle that the action under Section 4(1), 5 and 6 is an integrated action and one notification under Section 4(1) cannot be followed by several declarations under Section 6 issued on different dates and separated by considerable intervals of time.

5.05. This means that the Act will have to be amended so as to provide for more than one declaration under Section 6. But the advice of the Ministry of Law has been that any such amendment must steer clear of the provisions of Articles 14 and 31(2) of the Constitution and mere amendment of the Act would not solve the problem. To achieve the purpose, it would be necessary to amend article 31(2) of the Constitution so as to include therein, inter-alia a special definition of the expression "compensation" which may be less than the "just equivalent" of what is being acquired. Further, the Act would also require to be so amended as to avoid discrimination when more than one declaration under Section 6 is allowed to be issued in respect of land covered by a single omnibus notification under Section 4(1) of the Act, bearing in mind the principle of reasonable classification applicable in relation to Article 14.

6.06. The alternative would be to have an amending and validating legislation enacted by Parliament, amending the Act with retrospective effect and to include the same in the Ninth Schedule to the Constitution. This would automatically attract Article 31 B which is a constitutional device to place the statutes specified in the Ninth Schedule beyond any attack on the ground that they infringe Part III of the Consti-

tution. The latter course appears to be safer and more feasible. It was noted that the Ministry was taking action to frame an amending and validating Bill for the above purpose in consultation with the Ministry of Law.

Section 17.

6.07. The group felt that the limitation imposed by Section 17 on the type of land which can be acquired under the "emergency clause" has been the biggest factor contributing to delay in the execution of projects. After long discussion, the group agreed that the restriction under Section 17, confining the power to take immediate possession of "waste and arable" lands should be removed. The group therefore recommended that the words 'waste or arable' should be deleted from Section 17(1).

It was also agreed that the emergency provisions of this section should be extended to all projects of national importance including Defence. The special provisions with regard to railways in Section 17(2) need not, however, be altered.

6.08. In this connection, the Law Commission recommendation adding a new sub-section to the effect that the Collector should, on taking possession, immediately report the same to the appropriate Government together with the reasons therefor was endorsed. The Law Commission further suggested that the appropriate Government, on receipt of Collector's report must decide, within three months of the receipt of the report, whether proceedings for acquisition should be commenced or not: "If the Government fails to take a decision within four months of the date of taking possession, the persons

interested in the land shall be entitled to restoration of possession of land together with compensation". The group does not consider such a provision to be advisable.

Section 31(1).

6.09. At present, payment by cheque is not covered under this provision according to some judicial interpretations. It is suggested that all orders of payment on treasury or bank should be covered by the word "payment" referred to in Section 31(1) of the Act.

Taking possession by consent.

6.10. Apart from the question of emergency wherein the Collector has to be empowered in any case and at any time after notification under Section 4(1), the Collector may take possession of the land if the persons interested give their consent in writing and surrender possession by waiving their right to object to the acquisition. The Madras Committee had considered the problem from another angle. If majority of owners agree to give possession, but a few do not, what should be the method followed? The group felt that the legal formalities must be complied with. Regarding the suggestion of member from Madras that in case where possession of land has been taken with the consent of the owners prior to the issue of notification under Section 4(1), whether compensation should be determined with effect from the date of actual possession, the group felt that this was an exceptional situation. It emphasized that any informal arrangements of this nature would be at the risk of the parties concerned and there is no escape from the legal procedure being followed in order to secure the title of the Government. In all such cases, the formalities prescribed in law must be complied with.

7. COMPENSATION AND SOLATIUM

7.01. From time to time, public grievance has been heard with regard to the basis and procedure for determining compensation. Sections 23 and 24 of the Land Acquisition Act lay down the principles for determining the amount of compensation. The Town and Country Planning Act makes a special provision for cases where there is potential development value- that such potential value should be excluded in fixing the compensation and the land should be valued on the basis of the "existing use"- though the expression itself has not been defined. The group nevertheless felt that potential value with reference to future development should have no relevance in determining compensation.

7.02. As for the principles for determining the compensation, it was noted that in various pronouncements, the Supreme Court has held that the compensation paid for the land acquired should be "just equivalent". As the Law stands, the compensation is determined with reference to the market value on the date of the notification under Section 4(1). The group examined whether there would be any justification for acceptance of the proposal to change the date of determining the market value under Section 23(1) to the date of taking possession of the land by Government. In this connection, it was pointed out and even the Supreme Court has accepted the contention that where the intention to acquire land is widely known, some ante-dating would not be unjustified. The question is to what extent the ante-dating would meet the requirements of fair compensation. The group felt that if the time schedule laid down in Sections 5A to 11 of the Act is strictly adhered to, there would ordinarily be no undue time-lag between the date of notification under Section 4(1) and the taking of pos-

session of land. Such being the case, the date with reference to which compensation should be determined, must remain the date of notification under Section 4(1). The land values should not be pegged from a date earlier than this notification, nor, on the other hand, is there any justification to bring about any change in the factors to be taken into account in determining the market value.

7.03. The group considered the part which requisitioning department should play in the award proceedings. It was felt that the requisitioning department should take active part in assisting the Land Acquisition Collector in arriving at a fair value and should not remain a mere spectator. It should be competent for the requisitioning department to produce evidence in regard to the market value of the land.

7.04. Consequently, the group recommends that when the Land Acquisition Collector is considering the evidence pertaining to market value with a view to making the award, the requisitioning department should take active part in producing evidence on valuation. The Collector has to follow the procedure of a civil court. Documentary evidence regarding valuation is, therefore, admissible. The requisitioning department should present the case before the Collector. This is necessary for another reason as well, for an evidence which is not produced in the lower court cannot be produced before a higher court. The legal view was that although the Collector while making the offer, is an administrative officer, while determining the amount of the award, he is acting in a quasi judicial capacity and is bound to follow the procedure of a civil court. It is, therefore, considered that just as the interested party has a right to appeal, the concerned Government should also have the right to file cross objection or an appeal. Even otherwise

the requisitioning department should have the right to contest the award.

7.05. As the provision in law stands at present, the right to appear and adduce evidence for the purpose of determining the amount of compensation has already been given to the local authority or company concerned with acquisition under Section 50 of the Act. It was suggested that this right should be extended and "requisitioning department" should be enabled to appear before the Collector or the Court and adduce evidence. The proviso to Section 50(2) may also need amendment in the light of the above discussion.

7.06. In regard to cases where the requiring department decide to withdraw from acquisition, the group feels it would be fair that the owner - or the interested person - should be entitled to payment of damages as provided under Section 48(2). No damages need, however, be paid under Section 48(2) in case government department withdraws from acquisition prior to the publication of the draft declaration under Section 6. This may be stipulated by means of a suitable amendment.

7.07. Finally, the group is of the view that in cases where possession has been taken before the date of award, interim payment of 75 per cent of the preliminary estimate should be made as soon as the possession is taken; the balance to be paid after the award is announced by the Collector.

Solatium

7.08. The group was in favour of retaining the payment of solatium of 15 per cent for the compulsory nature of the acquisition. In this connection, the group

endorsed the view of the Law Commission that it is not enough for a person to get the market value of the land as compensation in order to place himself in a position similar to that which he would have occupied had there been no acquisition. The person concerned would have to spend a future amount for settling himself more or less in the same position as before.

8. REHABILITATION OF DISPLACED PERSONS AS A RESULT OF ACQUISITION OF LAND.

8.01. For sake of definition, any person who is shifted from his land and habitation as a result of acquisition of his land should be deemed to be a displaced person. The group examined what measures should be included in rehabilitation; whether the cost of rehabilitation should be a charge towards cost of acquisition; and whether there should be any betterment levy. These problems arise more particularly in case of large projects where a whole village or several villages, may be involved. For various reasons, Government have invariably accepted the responsibility for rehabilitation of the oustees. Some Ministries were of the view that rehabilitation should not be a charge on the project. The group, however, felt that once we accept that the State has moral responsibility for rehabilitation of the displaced people, it does not matter very much from which head of account the funds come.

8.02. In this connection, it was felt that the provision of Section 23(1) of the Land Acquisition Act implies the Government responsibility for rehabilitation. Projects where permanent labour is to be employed have been giving preference to dispossessed persons in matters of employment after necessary training. This would, however, mean a certain compulsion of change from the hereditary

occupation of agriculture to the occupation of an industrial worker. Such a change pre-supposes ability for adaptation. There may be cases where the displaced people move to the neighbouring village and take up agriculture. In such cases, there would not be much hardship. Even so, it is necessary to provide certain minimum amenities for the new settlement such as drinking water and roads and in case of large colonies, provision for schools, etc. The group, therefore, recommend that a reasonable level of amenities should be provided in the cost of the project over and above the cost of acquisition of land therefor. Some diversification of profession will also have to be allowed for. In cases of industrial projects, arrangements for technical training will have to be made. Facilities for housing of workers should also be provided. It may not be possible to lay down the law with regard to the exact nature of rehabilitative measures. But Government must assume responsibility in principle. One view was that a provision might be incorporated in the Act that the requiring department should bear the cost of rehabilitation on a scale to be prescribed. In the end it was considered that a policy decision on this issue at the level of the National Development Council would be sufficient to ensure necessary provision. In pursuance of such a policy decision - and when a suitable scale has been prescribed, the requiring department of government shall have to make the provision and place the funds at the disposal of the State Government concerned for taking rehabilitative measures.

8.03. With regard to betterment levy, the group was advised that the Ministry of Irrigation and Power appointed a Committee, with Chief Minister of Mysore as the Chairman and representative of the States and the concerned Ministries, which recommended that betterment levy should be charged, the quantum and

mode of recovery may, however, be determined by the State Governments. The group, however, noted that the legislation in regard to betterment levy has nowhere been implemented with any degree of seriousness.

9. CONCLUSION

9.01. The group confined its deliberations to the general law of acquisition and did not go into the problems relating to acquisition of land for such specific purposes as town planning and urban development. While there will have to be uniformity in the basic approach in matters concerning acquisition of private property, the town planning and other specialized legislation presents problems which were beyond the scope of the terms of reference of this group.

9.02. Majority of the recommendations made in this Report can be implemented only by promoting suitable amendments in the law. It has, however, been pointed out already that any amendment of the principal Act which may be enacted hereafter would not enjoy the protection under article 31(5) of the Constitution.

9.03. In so far as the subject of land acquisition is in the Concurrent List, it will be open to the State Governments to consider the recommendations in this Report and decide for themselves to what extent these would be adopted by them. Pending suitable legislation, several of the recommendations can be introduced by means of executive instructions.